IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

CRP.No. 181 of 2007()

OP(EA)120/2002 of ADDL.DISTRICT COURT, ALAPPUZHA.
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REVISION PETITIONER: RESPONDENT:

POWER GRID CORPORATION OF INDIA LTD.,
NANGIARKULANGARA, HARIPAD, REPRESENTED BY
ITS MANAGING DIRECTOR.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENT: PETITIONER:

SANTHAMMA @ SANTHA D. PANICKER,
HARIMANNU VELIYIL, PANAYIL MURI,
PALAMEL VILLAGE.

BY ADV. SRI.PHILIP M.VARUGHESE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/12/2007 ALONG WITH C.R.P.NO.653 OF 2007 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

M.N. KRISHNAN, J.

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C.R.P. NOs. 181, 653, 654,
673, 674 & 675 OF 2007

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Dated this the 7th day of December, 2007.

O R D E R

CRP 181/07 is preferred against the award of the Addl. District Judge, Alappuzha in O.P.(EA)120/02, CRP 653/07 is preferred against O.P.(EA)138/02, CRP 654/07 is preferred against O.P.(EA)173/02, CRP 673/07 is preferred against O.P.(EA)382/02, CRP 674/07 is preferred against O.P.(EA) 334/02 and CRP 675/07 is preferred against O.P.(EA) 238/02. In O.P.(EA)120/02 an additional compensation of Rs.47,215 is awarded and the Court below has relied upon the decision of this Court in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542).*** In O.P.(EA)138/02, the compensation awarded is Rs.20,675/- and the Court below has relied on the very same decision. In O.P.(EA)173/02 an additional amount of Rs.97,865/- is allowed relying on Kumba Amma's case. In O.P.(EA)382/02 an additional amount of Rs.8,340/- is allowed wherein also the same decision is referred to. In O.P.

(EA)334/02, an additional amount of Rs.15,128/- is allowed on the basis of the very same decision and in O.P.(EA)238/02 an additional amount of Rs.11,494/- is awarded relying upon the above said decision.

2. So far as O.P.(EA)382/02 is concerned it can be seen that the Court has enhanced the value by Rs.8,340/- and it took a value of Rs.5,000/- per cent and found that there is 30% diminution in the land value. The Court also found that the land value is fixed on the basis of Ext.A4. The Court has taken the minimum amount for the purpose of calculating the diminution of the land value. Therefore, even on an independent consideration in the light of the decision of the Apex Court in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) it cannot be stated that there is arbitrary enhancement of compensation. It is based on materials and therefore I decline to interfere with the award passed in O.P.(EA)382/02 and hence dismiss CRP 673/07.

3. So far as the other cases are concerned, the amount involved is high and since a uniform percentage of

5% is taken it requires reconsideration in the light of the decision of the Apex Court reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***). The Apex Court held as follows;

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

4. So, in the light of the above principles I find that additional particulars are required because it is the lie of the land and other factors that are relevant for determining the compensation. Therefore, I set aside the awards passed in those cases and direct the Court below to reconsider the

entire matters after affording equal opportunities to both the sides to adduce evidence in support of their respective contentions, both documentary as well as oral evidence and then dispose of the matter in the light of the principles laid down in the above said decision of the Apex Court. Therefore, CRP 673/07 is dismissed and all other revision petitions are remitted back to the Court below for fresh consideration as stated above. All the parties are directed to appear before the Court below on 21.1.2008.

The C.R.Ps. are disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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